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for Exiting the
European Union

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17th January 2020

Thank you for your letter of 20 December 2019 and our continued discussions on the Bill. I am disappointed that you do not feel in a position to recommend legislative consent to the Scottish Parliament. I am also disappointed that the Scottish Parliament voted not to give consent, particularly with the Bill at such an early stage in its parliamentary process.

Despite the distance between our positions, I know we both recognise the enduring power and value of our historic relationship and also the important role played by the legislative consent process – a principle to which the UK Government remains committed.

Over the years, this has helped ensure that UK-wide legislation both reflects the valid concerns of the Scottish Government and respects the devolution settlement. Both through significant engagement on the Bill and the changes we have made to accommodate your concerns, we have at every stage respected the spirit and the letter of the devolution settlement.

The Sewel Convention holds that the UK Government should not normally press ahead with legislation without legislative consent motions from devolved administrations but the circumstances of our departure from the European Union are specific, singular and exceptional. That does not, however, mean the UK Government will not continue to work to address your concerns.

I appreciate the kind acknowledgement in your letter of our level of engagement with the Scottish Government - this contrasts with your recent public remarks. The Bill was shared with you ahead of introduction and its core provisions have remained consistent over the course of our engagement on this matter since November 2018. Other than the changes made to address your previously raised concerns there has been little substantive change to clauses for which we have sought legislative consent in the versions shared with you over the course of this period. The Bill has also been discussed at numerous meetings of JMC(EN) and between officials on a regular basis.

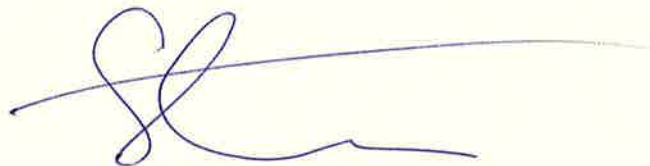
I would like to address your point on the insertion of a power to transfer the functions of the Independent Monitoring Authority (IMA) to another public body. I understand your concern on this issue, and confirm that we will stand by commitments we have made to you about the devolved administrations' role in appointments to the IMA, should its functions be transferred to another body.

We have deliberately ensured that the power in the Bill can be used to amend the constitution of the public body to which the IMA's functions are transferred. That means that if the power is ever used, the transferee's institutional design can be amended in line with that of the IMA, including ensuring that the important role of the devolved administrations in relation to appointments to the IMA can be replicated.

We stand ready to continue engaging with you as the Bill moves through its remaining Parliamentary stages.

I am copying this letter to the Chancellor of the Duchy of Lancaster and the Secretary of State for Scotland.

Yours sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'S' followed by a long horizontal line that tapers off to the right.

RT HON STEVE BARCLAY MP
SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION